

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

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PCT

NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(PCT Rule 71.1)

Date of mailing
(day/month/year)

01.06.2005

Applicant's or agent's file reference
PU030170

IMPORTANT NOTIFICATION

International application No.
PCT/US2004/018763

International filing date (day/month/year)
15.06.2004

Priority date (day/month/year)
16.06.2003

Applicant
THOMSON LICENSING S.A. et al

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international preliminary examining authority:



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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PU030170	FOR FURTHER ACTION See Form PCT/PEA416	
International application No. PCT/US2004/018763	International filing date (<i>day/month/year</i>) 15.06.2004	Priority date (<i>day/month/year</i>) 16.06.2003
International Patent Classification (IPC) or national classification and IPC H04N7/24, H04N7/50		
Applicant THOMSON LICENSING S.A. et al		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p style="margin-left: 20px;">a. <input type="checkbox"/> <i>sent to the applicant and to the International Bureau</i>) a total of sheets, as follows:</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>		
Date of submission of the demand 31.03.2005	Date of completion of this report 01.06.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Schoeyer, M Telephone No. +49 89 2399-2136 	

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/US2004/018763

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-15 as originally filed

Claims, Numbers

1-15 as originally filed

Drawings, Sheets

1/5-5/5 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/US2004/018763

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-15
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-15
Industrial applicability (IA)	Yes: Claims	1-15
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Re Item V.

- 1 The following documents are referred to in this communication:
D1 : KARCZEWICZ M ET AL: "A Proposal for SP-frames" ITU
TELECOMMUNICATIONS STANDARDIZATION SECTOR VCEG-L27, XX, XX,
9 January 2001 (2001-01-09), pages 1-9, XP002287038;
D2 : HORN U ET AL: "Robust Internet video transmission based on scalable coding
and unequal error protection" SIGNAL PROCESSING. IMAGE
COMMUNICATION, ELSEVIER SCIENCE PUBLISHERS, AMSTERDAM, NL,
vol. 15, no. 1-2, September 1999 (1999-09), pages 77-94, XP004180639 ISSN:
0923-5965;
- 2 INDEPENDENT CLAIM 1
 - 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the
subject-matter of claim 1 is not inventive in the sense of Article 33(3) PCT.
Document D1 discloses (see page 1, "Motivation") the provision of compressed video
streams to a decoder of different bandwidth and quality.
Also document D1 shows (last paragraph) the switching between (two) bitstreams
(normal and channel change streams).
Document D1 does not explicitly show the use at the encoder side of a multiplexer.
However, the skilled person is well aware of the fact that if a multiple of streams are
sent to a decoder they need to be multiplexed.
Thus the skilled person will immediately use a multiplexer in order to provide an
encoding apparatus that is apply to perform the bitstream switching as shown in D1.
The argument that in e.g. D1 only a single stream and not its accompanying
switching bitstream is sent to the receiver does not render the subject-matter of claim
1 inventive because the skilled person is aware of the fact there are situations (e.g. in
layered coding) in which all the information is sent to a receiver, and the receiver
selects only the information it needs. Given the similarity in set-up between layered
coding and switching between bitstreams (see e.g. also D2) the subject-matter of
claim 1 is considered to be rendered obvious by D1.

INDEPENDENT CLAIM 10

The subject-matter of claim 10 relates to a method in accordance with the apparatus of claim 1. Consequently the subject-matter of this claim lacks inventive step for the same reasons as set out above for claim 1.

INDEPENDENT CLAIM 13

The subject-matter of claim 13 relates to an apparatus which substantially corresponds to the encoder of claim 1. Consequently the subject-matter of this claim lacks inventive step for substantially the same reasons as set out above for claim 1.

INDEPENDENT CLAIM 14

The subject-matter of claim 13 relates to a videodisc have encoded on it data which corresponds to the data generated by the apparatus of either claim 1 or claim 13 or the method in accordance with claim 10. Consequently the subject-matter of this claim lacks inventive step for substantially the same reasons as set out above for claim 1.

3 DEPENDENT CLAIMS 2-9, 11,12, 15

Dependent claims 2-9, 11,12, 15 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step (Article 33(3) PCT).

- low pass filtered images (as in claim 2) are known from D1 (see page 2, last paragraph)
- the downsampling (as in claims 3, 5, 11) is implicitly known from this paragraph since otherwise the transition from one stream to another having different frame sizes (resolutions) is not possible.
- inclusion of more frequent I frames (as in claim 4), -see D1 (page 1, last paragraph; figure 2);
- redundant syntax decoding (as in claim 6, 11), -common general knowledge;

- channel change pictures (as in claims 7 ,8, 11, 12) are known from D1 (see figure 2);
- selecting means (as in claims 9, 12) are necessary in order to select one of the two bitstreams in D1;

In general it is noted that documents D1 and D2 show the transition from one bitstream to another bitstream which represent the same content. The switching can be carried out by using I, SP or both I and SP frames. This technique is used for both random access as well as fast forward or channel switching since in all cases there is a need to wait for an I frame before the stream of interest can be watched. Obviously by having a second stream which provides I frames at a higher frequency the latency can be reduced.

4 INDUSTRIAL APPLICABILITY

The subject-matter of claims 1-15 is industrially applicable in the field of bitstream switching.

Re Item VII.

1. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1-D2 are not mentioned in the description.